

IV. REMARKS

Reconsideration and allowance of the present application based on the above amendments and the following remarks are respectfully requested. Upon entry of this Response, claims Claims 1, 2, 5, 7 - 9, 18, 21 - 28, 30, and 31 - 36 will be pending.

In Section 8 of the Office Action, dated September 4, 2003, claims 22 and 28 are classified as being withdrawn from further consideration, under 37 CFR 1.142(b), as being drawn to non-elected inventions.

The Applicants have amended claim 22 that introduces further limitations in terms of the method by which a price for an advertising spot is determined based on different factors. The recited factors include indicators measuring degrees of importance with respect to certain predetermined constraint from the perspectives of both an advertiser and a broadcaster by dependency from claim 18. Such limitations constitute a coherent part of the claimed method for ordering an advertising spot for an advertisement to be delivered to target users. The amended claim 22 is fully supported by the specification. Therefore, the amended claim 22 is now drawn to system and method classifications of elected subject matter.

The amended claim 28 is now dependent from claim 23, which is directed to a method for an advertiser. The amended claim 28 introduces a further limitation of receiving demographic information that characterizes the target users determined based on predetermined constraints. The amended claim 28 is now drawn to method and system classifications of elected subject matter. Therefore, the amended claims 22 and 28 are now pending.

In Section 12 of the Office Action, claims 5 and 6 have been rejected, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner pointed out that "It is not clear what the 'apportioning a weighted significance' step in claim 5 means." Applicants respectfully traverse such rejection on the basis that such statement would be clear to one of ordinary skill in the art.

In the disclosed exemplary embodiments for determining a price, the demand and the supply for the target users are taken into account in determining a price for an advertising spot. In addition, the relationship between the demand and the supply is also considered, all in the context of the given predetermined constraints. In a disclosed embodiment, the relationship between demand and supply is computed as a summation of a plurality of products (Fig. 5), wherein each product (of two values) corresponds to an underlying constraint (e.g., age) and the value of the product reflects the demand for a target user with respect to the underlying constraint. The two values involved in a product associated with a predetermined constraint may include an index and a coefficient. An index measures "the relative importance of the individual ... to the broadcaster." (page 20, lines 10-11). A coefficient measures "the demand for the individual from the advertiser's perspective." (page 21, lines 7-9). The product of these two measures characterizes a compound demand considering both the advertiser's perspective and the broadcaster's perspective for a target user with respect to the underlying constraint. When there is a plurality of predetermined constraints, such compound demand may be computed with respect to each and every of such constraints. An overall demand for a target user across different constraints may also be determined. In one described embodiment, the overall demand for a target user is determined by summing the compound demand for the user with respect to each and every predetermined constraint (example is shown in Fig. 5).

Furthermore, by this amendment, claim 5 has been amended to recite a method to determine a price based on index values and coefficient values. The subject matter claimed in the amended claim 5 is fully supported by the specification. It is respectfully asserted that the amended claim 5 overcomes the indefiniteness rejection. The rejection as to claim 6 is respectfully mooted by the cancellation of the same herein.

In Section 14 of the Office Action, claims 1, 2, 4-10, 18-20, 23, 26, and other related dependent claims have been rejected, under 35 U.S.C. §101, as being directed to non-statutory subject matter. Applicant respectfully traverses such rejections arguing that the subject matter of the claims is fully protectable under U.S. statutes. Applicants respectfully point out that business methods are patentable subject matter even when all steps may be performed manually. Furthermore with respect to claims 4, 6, 10, 19 and 20, Applicant asserts that the cancellation of the same herein moots the rejection. Also in respect of independent claims 1, 7, 8, 9, 10, and 18,

and related dependent claims, such claims have been amended to include "over a data network" in the body of the claims. Therefore, the Applicants respectfully request that the rejection of claims 1, 2, 4-10, 18-20, 23, 26, and other related dependent claims, under 35 U.S.C. §101 be withdrawn.

In Section 16 of the Office Action, claims 1, 2, 4, 10, 18 - 21, 23 - 27, and 29 - 30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Dedrick (U.S. Patent No. 5,724,521 A). The rejection is respectfully traversed in part on the basis that one of ordinary skill in the art would not find such embodiments obvious in light of the prior art of record, whether taken alone or in combination with other cited art. Furthermore with respect to claims 4, 6, 10, 19, 20 and 29, Applicants assert that the cancellation of the same herein moots the rejection.

Of the claims rejected under 35 U.S.C. §103(a), claims 1, 7, 8, 9, 18 and 23 are independent claims, with the other rejected claims depending therefrom. In respect of claim 1, 7, 8, 9, 18 and 23, it is respectfully noted that the price is determined for an "advertising spot" in which an advertisement is to be placed. Applicant respectfully asserts that such disclosure is not found in the Dedrick reference. Further, in respect of claim 1, 7 and 8, the cost to the advertiser is determined based on the degree of correspondence for each target user between the target user's profile and the advertiser's desires for transmission of the advertisement with respect to each of predetermined constraints, which may be, for example, as set forth in claim 2, gender, income, hobby, age versus looking at the characteristics of the totality of end users served by each metering server as in Dedrick. Claims 18 specifically includes in the calculation of cost the relative importance of the target user to the broadcaster as well, a teaching not found by Applicants in the Dedrick reference. Claim 23 as well is directed to a broadcaster embodiment. Claim 18 specifically recites an advertisement embedded in a motion picture content, respectfully which is also not taught or suggested by Dedrick. New dependent claim 31 - 36 recite that the advertisement spot is in a television broadcast/program which was agreed at interview not to be taught or suggested by Dedrick. As claims 2, 4, 24, 25, 26, 27 and 28 depend from claim 1, claim 30 and 31 (new) from claim 7, claim 33 (new) from claim 8, claim 34 (new) from claim 9, and claims 21, 22, and 35 (new) from claim 18, and claim 36 (new) from claim 23, it is respectfully asserted that these claims are patentable for the same reason as the claims from which they depend in that they claim something less.

The claimed embodiments are clearly distinct from Dedrick. In addition, there is no motivation in Dedrick's teaching that leads one skilled in the art to the claimed invention. Therefore, the Applicants respectfully request that the rejection of claim 1, 2, 4 - 10, 18 - 21, 23 - 27, and 29 - 30 under 35 U.S.C. §103(a) be withdrawn.

In view of the foregoing, the claims are now believed to be in form for allowance, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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